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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/088,267	03/13/2002	Artur Schwoerer	2895	8808

26822 7590 08/08/2003

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EXAMINER
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FERGUSON, MICHAEL P

ART UNIT	PAPER NUMBER
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3679

DATE MAILED: 08/08/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/088,267

Applicant(s)

SCHWOERER, ARTUR

Examiner

Michael P. Ferguson

Art Unit

3679

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 10-17 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 10-17 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 13 March 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 3.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

## DETAILED ACTION

### *Claim Objections*

1. Claims 10-17 are objected to because of the following informalities:

Claim 10 (line 19) recites "element". It should recite --elements--.

Claim 11 (line 2) recites "is further operable". It should recite --are further operable--.

Claim 11 (line 3) recites "for the concrete shell element". It should recite --from the concrete shell elements--.

Claim 12 (line 2) recites "comprises comprising". It should recite --comprises--.

Claim 13 (line 2) recites "the opposing archings". It should recite --opposing archings--.

Claim 14 (line 2) recites "inner surface". It should recite --inner surfaces--.

Claim 15 (line 2) recites "means comprises". It should recite --means comprise--.

Claim 15 (line 4) recites "first lock part, and device further comprises". It appears the applicant intended to recite --second lock part, and further comprise--.

Claim 16 (line 2) recites "means comprises a pivoting and/or tilting lever". It is unclear as to whether the lever is for either pivoting or tilting, or whether the lever is for pivoting and tilting. It appears the applicant intended to recite --means comprise a pivoting or tilting lever--.

Claim 16 (line 4) recites "claws or in the... claws". It should recite --claw or in the... claw--.

Claim 17 (line 2) recites "means comprises a wedge which, being". It should recite –means comprise a wedge which, when--.

For the purpose of examining the application, it is assumed that appropriate correction has been made.

***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 10 and 11 are rejected under 35 U.S.C. 102(b) as being anticipated by Peri-Werk Artur Schwörer GmbH&Co KG (DE 35 46 832).

As to claim 10, Peri-Werk Artur Schwörer GmbH&Co KG discloses a turnbuckle device **10** capable of mutually clamping two concrete shell elements across a joint therebetween, the shell elements each including a frame with longitudinal and transverse struts, the turnbuckle device having:

means **12,15** for retaining the turnbuckle device on one of the longitudinal and transverse struts and positioning the turnbuckle device across abutting edges of the shell elements;

a first lock part **12** including a stationary first claw **12** for engaging one of the frames, the first claw being configured for direct engagement with the respective frame;

a second lock part **13** pivotally disposed with respect to the first lock part (second part **13** pivoting to allow for serrations of the second part to disengage with serrations

**24** of first part **12**, allowing the second part to be displaced along the first part) and including a second claw **13** configured for direct engagement with another of the frames;

arresting means **32,60,61,62** for limiting a pivoting range of the second lock part in order that the second claw prevents release of the turnbuckle device from the shell elements and optimally limits movability of the turnbuckle device (Figures 1-4, abstract).

As to claim 11, Peri-Werk Artur Schwörer GmbH&Co KG discloses a device wherein arresting means **32** are operable (removed from side openings **30**) for enabling the turnbuckle device to be removed from shell elements (Figures 2 and 3, abstract).

4. Claims 10, 11, 15 and 16 are rejected under 35 U.S.C. 102(b) as being anticipated by Hünnebeck GmbH (EP 201 887).

As to claim 10, Hünnebeck GmbH discloses a turnbuckle device capable of mutually clamping two concrete shell elements across a joint therebetween, the shell elements each including a frame with longitudinal and transverse struts, the turnbuckle device **1** having:

means **2,22** for retaining the turnbuckle device on one of the longitudinal and transverse struts and positioning the turnbuckle device across abutting edges of the shell elements;

a first lock part **2** including a stationary first claw **2** for engaging one of the frames, the first claw being configured for direct engagement with the respective frame;

a second lock part **3** pivotally disposed with respect to the first lock part and including a second claw **3** configured for direct engagement with another of the frames;

arresting means **4,12,13** for limiting a pivoting range of the second lock part in order that the second claw prevents release of the turnbuckle device from the shell elements and optimally limits movability of the turnbuckle device (Figures 1-3, abstract).

As to claim 11, Hünnebeck GmbH discloses a device wherein arresting means **13** are operable for enabling the turnbuckle device to be removed from shell elements (Figure 3).

As to claim 15, Hünnebeck GmbH discloses a device wherein retaining means **2** comprise a shackle which projects from a rod-shaped body **5** which holds and displaceably guides a second lock part **3**, and further comprise a bolt mounting means **4** for insertion into a first opening in the shackle (Figure 1).

As to claim 16, Hünnebeck GmbH discloses a device wherein retaining means **2** comprise a pivoting lever **4,13** which is disposed in the region of a stationary claw **2** (Figure 1).

### ***Allowable Subject Matter***

5. Claims 12-14 and 17 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

As to claim 12, Hünnebeck GmbH discloses a device wherein a first lock part **2** comprises a stationary first claw **22** (Figure 1).

Hünnebeck GmbH fails to disclose a device wherein a first lock part comprises stationary first claws and means for retaining comprise archings, the archings protruding from inner surfaces of the stationary claws.

Art Unit: 3679

As to claim 17, Hünnebeck fails to disclose a device wherein arresting means comprise a wedge which, when displaced in the direction of force of gravity, blocks a pivotable second claw in a pivoted inner position state and clamps the turnbuckle device for mutual clamping of two shell elements, and when displaced against the force of gravity, releases the pivotable second claw for pivoting and displacement with respect to a first stationary claw.

It would not have been obvious to one having ordinary skill in the art at the time the invention was made to modify a device as disclosed by Hünnebeck GmbH to have any of the above mentioned features as such modifications are neither taught nor suggested by the prior art.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to the applicant's disclosure. The following patents show the state of the art with respect to turnbuckle devices:

Ursini et al. (USPN 3,550,898) is cited for pertaining to devices having a pivotable claw.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael P. Ferguson whose telephone number is (703)308-8591. The examiner can normally be reached on M-F (7:30-4:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lynne H. Browne can be reached on (703)308-1159. The fax phone numbers for the organization where this application or proceeding is assigned are

Application/Control Number: 10/088,267

Page 7

Art Unit: 3679

(703)872-9326 for regular communications and (703)872-9327 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)308-1114.

MPF

August 4, 2003



**Lynne H. Browne**  
**Supervisory Patent Examiner**  
**Group Art Unit 3679**